

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

JOSEPH FURANDO,

Petitioner

v.

WARDEN DAVID ORTIZ

Respondent

Civil Action No. 20-3739(RMB)

MEMORANDUM AND ORDER

Choose an item.

This matter comes before the Court upon Petitioner's motion for reconsideration (Dkt. Nos. 12, 13.) of this Court's order denying his petition for writ of habeas corpus under 28 U.S.C. § 2241 without prejudice for failure to exhaust administrative remedies. Petitioner, a prisoner in the Federal Correctional Institution in Fort Dix, New Jersey ("FCI Fort Dix") sought release to home confinement under the CARES Act, based on his underlying medical conditions posing a serious risk to his health if he contracts the COVID-19 virus. (Pet., ECF No. 1.)

On April 21, 2020, the Court denied the petition without prejudice for failure to exhaust administrative remedies. (Opinion, ECF No. 6; Order, ECF No. 7.) Respondent then provided a status update, stating Petitioner was not eligible for relief under the CARES Act. (Letter, ECF No. 8.)

The Court directed Petitioner to file a new petition for writ of habeas corpus under 28 U.S.C. § 2241, if he had a basis to challenge the BOP's decision. (Order, Dkt. No. 9.) Petitioner filed an "Answer to Warden's Response to 2241," (Dkt. No. 10), which the Court construed as a new § 2241 habeas petition, and directed the Clerk to open a new civil action, Furando v. Ortiz, 20-5579 (D.N.J.) Petitioner, however, seeks reconsideration of the Order denying his first petition for failure to exhaust administrative remedies. Petitioner contends exhaustion is futile. (Letters, Dkt. Nos. 12, 13.) Meanwhile, in Civil Action No. 20-5579, Respondent argued that Petitioner has not fully exhausted his administrative remedies. (Civ. No. 20-5579, Response to Pet., Dkt. No. 2.)

IT IS on this 1st day of June 2020,

ORDERED that Respondent shall, within seven days of the date of this Order; submit a supplemental brief in this action, addressing Petitioner's contention that further exhaustion of administrative remedies is futile; Petitioner may file a response to Respondent's supplemental brief within seven days of service of that brief on Petitioner; and it is further

ORDERED that the Clerk shall serve a copy of this Order on Petitioner by regular U.S. mail.

s/Renée Marie Bumb
RENÉE MARIE BUMB
United States District Judge